



## **Local Assistance Procedures Manual (LAPM) Chapter 6 – Environmental Procedures**

### **I. BACKGROUND**

As part of MAP-21, the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) amend joint procedures that implement the National Environmental Policy Act (NEPA) to add two new categorical exclusions to the “c” list in 23 CFR 771.117(c) effective February 12, 2014.

One of the new categorical exclusions is described in 23 CFR 771.117(c)(22) for “projects, as defined in 23USC101, that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for a transportation purpose such as clear zone, traffic control signage landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.”

The second new categorical exclusion is described in 23 CFR 771.117(c)(23) for “federally funded projects (i) that receive less than \$5,000,000 of federal funds; or (ii) with a total estimated cost of not more than \$30,000,000 and federal funds comprising less than 15 percent of the total estimated project cost.”

The new CEs are not exempt from long-standing requirement to consider unusual circumstances. Unusual circumstances must be considered for all CEs as required by 40 CFR 1508.4. The Agencies did not create a new standard to assess unusual circumstances through this rulemaking.

### **II. POLICY**

This change is in effect as of February 12, 2014.

### **III. PROCEDURE**

Exhibit 6-E, Categorical Exclusion Checklist, and Exhibit 6-F, Categorical Exemption/Categorical Exclusion Determination Form, are replaced in their entirety by Attachments 1 and 2, of this Office Bulletin.



#### IV. APPLICABILITY/IMPACTS

This policy applies to all local agency federal-aid projects “off” the State Highway System. Failure to comply with the respective sections in 23 CFR 771 may result in delays to project delivery or jeopardize the federal eligibility of the project.

Recommended: Original Signed By  
Laura Walsh, Senior Environmental Planner, Committee Chair

2/12/14

Date

Approved: Original Signed By  
Germaine Belanger, Chief  
Office of NEPA Assignment and Environmental Compliance

2/12/14

Date

#### Attachments:

Attachment 1 – Categorical Exclusion Checklist, Exhibit 6-E

Attachment 2 – Categorical Exemption/Categorical Exclusion Determination Form, Exhibit 6-F

Superseded BY LPP 16-05